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IPIB AO 2016-06

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SUBJECT: Appeal of IPIB Dismissal of Complaint

Kevin Kilgore
1695 115th Street
Diagonal, Iowa 50845

Dear Mr. Kilgore:

This opinion is in response to your letter of January 25, 2016, requesting an opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code section 23.6 and rule 497—1.2. We note at the outset that IPIB's jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

You inform us that IPIB has certain judicial functions in determining whether to accept or dismiss a complaint. In the event a complaint is dismissed, you seek additional information as to how that decision may be appealed.

QUESTION:

1. When a complaint is dismissed by IPIB, is that decision automatically forwarded for review to the Polk County District Court?

OPINION:

Iowa Code chapter 23 clearly establishes that decisions by the Board are subject to judicial review pursuant to the procedures in Iowa Code chapter 17A. Nothing in Chapters 23 or 17A require the Board to automatically forward a decision to dismiss a complaint to the Polk County District Court.

For purposes of judicial review under Iowa Code chapter 17A, the Board's decision to dismiss a complaint is considered "final agency action" as there is no rehearing provision in Iowa Code chapter 23 or the Board's administrative rules on such a decision.

Board Members

Robert Andeweg • Anthony Gaughan • Jo Martin • Andrew McKean • Gary Mohr • William Monroe
Kathleen Richardson • Suzan Stewart • Peggy Weitzl

BY DIRECTION AND VOTE OF THE BOARD

Suzan Stewart, Chair
Kathleen Richardson, Vice Chair
Robert Andeweg
Anthony Gaughan
Jo Martin
Andrew McKean
Gary Mohr
William Monroe
Peggy Weitzl

Submitted by: W. Charles Smithson, IPIB Director